

## UNITED STATES DEPARTMENT OF COMMERCE **Patent and Trademark Office**

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	APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR			ATTORNEY DOCKET NO.
	09/131.084	08/07/9	es GUTH		Т	3616.111USC1
Г	PM21/1208  MERCHANT GOULD SMITH EDELL				EXAMINER	
					NEUDER.W	
	WELTER & 9				ART UNIT	PAPER NUMBER
	3100 NORWEST CENTER 90 SOUTH SEVENTH STREET MINNEAPOLIS MN 55402-4131			3672		
					DATE MAILED	: 12/08/ <del>9</del> 8

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks** 

# Office Action Summary

Application No. 09/131,084

Applicant(s)

Guth

Examiner

William P. Neuder

Group Art Unit 3672



Responsive to communication(s) filed on	<u> </u>						
☐ This action is <b>FINAL</b> .							
Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213.							
A shortened statutory period for response to this action is set is longer, from the mailing date of this communication. Failure application to become abandoned. (35 U.S.C. § 133). Extens 37 CFR 1.136(a).	e to respond within the period for response will cause the						
Disposition of Claims							
	is/are pending in the application.						
Of the above, claim(s)	is/are withdrawn from consideration.						
Claim(s)							
Claim(s)	is/are objected to.						
☐ Claims	are subject to restriction or election requirement.						
Application Papers							
☐ See the attached Notice of Draftsperson's Patent Drawi	ng Review, PTO-948.						
☐ The drawing(s) filed on is/are obje	cted to by the Examiner.						
☐ The proposed drawing correction, filed on	is 🗀 approved 🗀 disapproved.						
$\hfill\Box$ The specification is objected to by the Examiner.							
$\hfill\Box$ The oath or declaration is objected to by the Examiner.							
Priority under 35 U.S.C. § 119							
Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).							
☐ All ☐ Some* ☐ None of the CERTIFIED copies	of the priority documents have been						
received.							
received in Application No. (Series Code/Serial No.	umber)						
received in this national stage application from the International Bureau (PCT Rule 17.2(a)).							
*Certified copies not received:							
☐ Acknowledgement is made of a claim for domestic prior	rity under 35 U.S.C. § 119(e).						
Attachment(s)							
Notice of References Cited, PTO-892							
	No(s)2						
☐ Interview Summary, PTO-413	242						
□ Notice of Draftsperson's Patent Drawing Review, PTO-S	348						
☐ Notice of Informal Patent Application, PTO-152	·						
SEE OFFICE ACTION ON	THE FOLLOWING DACES						
SEE OFFICE ACTION ON	THE FOLLOWING PAGES						

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#### **DETAILED ACTION**

### Claim Rejections - 35 USC § 112

1. Claims 26 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

## Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-25 of U.S. Patent No. 5,795,105. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been considered obvious to eliminate the functional terminology "wherein said

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protrusion and insets have relative sizes adapted to permit relative rotation of the protrusion and

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the inset within which it is mated" from the claims.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(f) he did not himself invent the subject matter sought to be patented.

5. Claims 1-27 are rejected under 35 U.S.C. 102(f) because the applicant did not invent the

claimed subject matter. If you look at the patent No. 5,704,183, to Woolford, it is clear that Mr.

Woolford invented the subject matter presented in this application.

6. Any inquiry concerning this communication or earlier communications from the examiner

should be directed to William P. Neuder whose telephone number is (703) 308-2168.

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W.P.N.

December 3, 1998

William Neuder Primary Examiner Page 4